



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 03363-99

4 May 2000

LI1 [REDACTED] USN

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that your performance evaluation report for 1 December 1995 to 30 May 1996 be removed, or in the alternative, that your statement dated 20 April 1999 be filed in your record. Your request to file the statement was not considered, since the statement improperly includes a request to investigate the evaluation at issue and change it; and you did not obtain the reporting senior's endorsement.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 18 November 1999, a copy of which is attached, and your letter dated 18 April 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice. In this connection, they substantially concurred with the advisory opinion. They were unable to find your zone supervisor never counseled you about perceived poor or mediocre performance. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. The Board likewise was unable to find your reporting senior had insufficient opportunity to observe your performance, noting observation need not be direct. They were not persuaded that your zone supervisor tried to harm your career because you questioned his direction to work on Labor Day. Finally, they noted the commendations you provided were dated before the period in question. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

3363-99



# DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-311  
18 NOV 99

## MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: LIL [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance report for the period 1 December 1995 to 30 May 1996.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the report in question to be on file. The member signed the report indicating his desire to submit a statement. Per reference (a), the member has two years from the ending date of the report to submit a statement if desired. The member provides a copy of the statement with his petition; however, the member's statement is unsuitable for file due to the statement missing the reporting senior's endorsement and makes request. The statement was returned to the member on 28 October 1999 via the original reporting senior.

b. The member states that the report in question does not reflect his performance as a Lithographer First Class Petty Officer. We feel that since the member was assigned as a recruiter, it would only be appropriate for the reporting senior to evaluate the member's performance based on the billet assigned to during the reporting period.

c. The member further states that the Zone Supervisor, who was not his immediate supervisor, wrote his performance report. It is appropriate for the reporting senior to obtain and consider information from the member's chain of command in developing a performance report. In whatever manner the report is developed represents the judgement and appraisal authority of the reporting senior.

(3) 40

Subj: LI [REDACTED] USN [REDACTED]

d. The marks, comments and recommendations contained in the report are at the reporting senior's discretion. They are not routinely open to challenge.

e. The member does not prove the report to be unjust or in error.

3. We recommend retention [REDACTED] report.

[REDACTED]

Head, Performance  
Evaluation Branch